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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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08/773,677 12/24/96 KAO

R 66263

EXAMINER

IM61/0715

WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606-3913

MARCANTONI, E.

ART UNIT

PAPER NUMBER

1755

DATE MAILED: 07/15/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 6/26/98☐ This action is FINAL.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Art Unit: 1108

Applicant's declaration under 37 CFR 1.132 and response filed 6/26/98 have been considered but they are not persuasive.

REJECTION:

Claims 1-11 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Pichat.

Pichat teaches a waste incineration process which is applicable to "all" types of waste by heating to 1000°C and adding a material containing calcium carbonate (i.e. CaO source), silicon oxide, aluminum oxide, iron oxide. Pichat further teaches that the material formed is non-crystalline (ie a glass or amorphous) and has hydraulic properties which makes it cementitious (all claims, and col.3, last paragraph).

The specification is objected to under the first paragraph of 35 USC 112 as the specification as originally filed does not provide support for the invention as is now claimed.

The limitation ~~which~~ which leaches less than 0.01 mg/L of Pb, Ca, and Cd and less than 0.1 mg/L of Zn~~which~~ would appear to constitute new matter. Further it is unclear if applicants derive their support from the specification or declaration for these values. If from the declaration, these values would appear to be off by a significant figure. (I.e. .01 would appear to supposed to be .001 mg/L).

Art Unit: 1108

Claims 1-11 are rejected under the first paragraph of 35 USC 112 for the reasons set forth in the objection to the specification.

Response:

All other references have been withdrawn from the examiner's rejection. The applicants declaration under 37 CFR 1.132 would appear convincing as the composition of the present invention shows improved leach prevention over Pichat. However, it would appear that the limitations of 0.01 mg/L of Pb, Ca, and Cd and less than 0.1 mg/L of Zn are new matter not supported by the original disclosure. Thus, the rejection over Pichat would appear to hold unless it can be shown that this limitation added is not new matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is (703) 308-1196.

Should efforts to reach the examiner not be successful, Mark Bell, Supervisory Primary Examiner for Art Unit 1108, may be reached at (703) 308-1196.

July 14, 1998



PAUL MARCANTONI
PRIMARY EXAMINER
GROUP 1100